

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

REGINALD L. SHUMPERT,)	
)	
Movant,)	
)	
v.)	No. 1:22-cv-00011-SNLJ
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter comes before the Court on movant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. The motion is successive and will be denied and dismissed.

On October 20, 2016, the Court held a bench trial and found movant guilty of the offense of bank robbery. *United States v. Shumpert*, No. 1:16-cr-00057-SNLJ (E.D. Mo. filed May 19, 2016). The Court sentenced movant to 240 months of imprisonment. With the assistance of counsel, movant filed a timely appeal to the Eighth Circuit Court of Appeals. In his appeal, movant claimed the government's in-court identification of him was overly suggestive and should have been suppressed. This argument failed under plain error review.

On July 22, 2019, movant filed his first motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. *Shumpert v. United States*, No. 1:19-cv-00116-SNLJ (E.D. Mo. Jul. 22, 2019). The Court denied this motion on August 19, 2020, and movant filed an appeal. On January 11, 2021, the Eighth Circuit Court of Appeals denied movant's appeal. Movant petitioned the United States Supreme Court for a writ of certiorari, which was denied on April 19, 2021. *See id.* at ECF No. 36.

Movant filed the instant motion to vacate on January 25, 2022. He alleges: (1) counsel was ineffective for not challenging the use of a prior conviction for cocaine possession for career offender enhancement purposes; (2) counsel was ineffective for not challenging the use of a suspended imposition of a sentence for career offender enhancement purposes; and (3) counsel was ineffective for not challenging movant's presentation to a witness while movant was wearing shackles and a jail jumpsuit.

Under 28 U.S.C. § 2244(a) and § 2255(h) district courts may not entertain a second or successive motion to vacate unless it has first been certified by the court of appeals. The instant motion to vacate has not been certified by the Court of Appeals for the Eighth Circuit. As a result the Court may not grant the requested relief and this action must be denied and dismissed.

Accordingly,

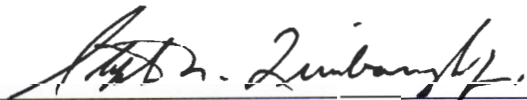
IT IS HEREBY ORDERED that movant's motion to vacate, set aside, or correct sentence is **DENIED AND DISMISSED as SUCCESSIVE**. [ECF No. 1]

IT IS FURTHER ORDERED that all other pending motions are **DENIED as moot**. [ECF Nos. 2, 4, 6, and 7]

IT IS FURTHER ORDERED that no certificate of appealability shall issue.

An Order of Dismissal will accompany this Memorandum and Order.

Dated this 28th day of January, 2022.



STEPHEN N. LIMBAUGH, JR.
SENIOR UNITED STATES DISTRICT JUDGE